

STATE OF CALIFORNIA  
HEALTH AND WELFARE AGENCY  
DEPARTMENT OF HEALTH SERVICES  
TOXIC SUBSTANCES CONTROL PROGRAM

In the Matter of:	)	Docket No. <u>DO 91/92 4-001</u>
	)	
Solar Turbines, Inc.	)	CORRECTIVE ACTION ORDER AND
Harbor Drive Plant	)	COMPLAINT FOR PENALTY
2200 Pacific Highway	)	
San Diego, CA 92138-5376	)	
Respondent.	)	Health and Safety Code
	)	Sections 25187 and 25189.2

INTRODUCTION

1.1. Parties. The State Department of Health Services (Department) issues this Corrective Action Order and Complaint for Penalty (Order and Complaint) to Solar Turbine, Inc. (Harbor Drive Plant) (Respondent).

1.2. Site. Respondent generates, handles, treats, stores, and/or disposes of hazardous waste at the following site: 2200 Pacific Highway, San Diego, California.

1.3. Permit/Interim Status. The Department authorized Respondent to manage hazardous waste by Interim Status Document, EPA ID# CAD008314908 issued on April 6, 1981. Department issued Hazardous Waste Facility Permit on July 24, 1987; this Permit expires July 24, 1992.

1.4. Jurisdiction. Section 25187 of the Health and Safety Code (HSC) authorizes the Department to issue an Order when the Department determines that any person has violated, is violating, or threatens to violate specified provisions of the Health and Safety Code or any permit, rule, regulation, standard or requirement issued or adopted pursuant thereto. HSC section 25189.2 authorizes the Department to issue a Complaint and to impose a penalty on persons who commit specified acts, pursuant to the procedures set forth in HSC section 25189.3.

### DETERMINATION OF VIOLATIONS

2. The Department has determined that the Respondent has violated, is violating, or threatens to violate HSC section 25189.2 and other specified provisions as follows:

2.1. On or about February 20, 1991, Respondent violated title 22, Cal. Code Regs., section 67104(d), in that Respondent failed to record required information in the inspection record, to wit: inspections of hazardous waste yard, empty hazardous waste drum storage yard and Chapel sump were not recorded in inspection log.

2.2. On or about February 20, 1991, Respondent violated title 22, Cal. Code Regs., section 67243(a), by leaving open a hazardous waste container when waste was not being added or removed, to wit: one 55-gallon drum in oil/water separation unit holding waste oil, coolant and oil soaked pigs was not closed.

2.3. On or about February 20, 1991, Respondent violated title 22, Cal. Code Regs., section 66508(a)(2), in that the initial date of accumulation was not marked clearly and visibly on each container, to wit: one 55-gallon drum in oil/water separation unit holding waste oil, coolant and oil soaked pigs; two 55-gallon drums containing hazardous waste in the hazardous waste yard; and two 55-gallon drums containing still bottoms from 1,1,1, trichloroethane distillation in TCA distillation unit, were not marked with the initial date of accumulation.

2.4. On or about February 20, 1991, Respondent violated title 22, Cal. Code Regs., section 66508(a)(3), in that the words "Hazardous Waste" were not marked on a hazardous waste container or tank identified as follows: one 55-gallon drum in oil/water separation unit holding waste oil, coolant and oil soaked pigs.

2.5. On or about February 20, 1991, Respondent violated title 22, Cal. Code Regs., section 66508(c), by storing hazardous waste in a nonstationary container

with no label, to wit: one 55-gallon drum in oil/water separation unit was not labeled with the composition and physical state of the waste and address of the person producing the waste.

2.6. On or about February 20, 1991, Respondent violated title 22, Cal. Code Regs., section 67124, in that Respondent did not maintain sufficient aisle space, to wit: not enough aisle space between each row of drums.

2.7. On or about February 20, 1991, Respondent violated title 22, Cal. Code Regs., section 67241, by failing to manage or transfer to a container in good condition, hazardous waste held in a container that was leaking or not in good condition, to wit: one 55-gallon drum holding corrosive waste in the hazardous waste yard was leaking.

2.8. On or about February 20, 1991, Respondent violated Hazardous Waste Facility Permit section III. c.1.a and Operation Plan, section II. B.3.g.(3) and Health and Safety Code section 25202(a), in that the facility failed to keep several 55-gallon containers holding hazardous waste inside the area designated in the approved operation plan.

2.9. On or about February 20, 1991, Respondent violated title 22, Cal. Code Regs., section 67740(a)(5), by failing to retain on-site a copy of all notices, certifications, demonstrations, waste analysis data, and other documentation produced pursuant to section 66740, for at least five years from the date that waste was sent to on-site or off-site treatment, storage or disposal, to wit: land disposal restriction notifications/certifications were not kept at the facility as required.

2.10. On or about February 20, 1991, Respondent violated title 22, Cal. Code Regs., section 67102(b), in that Respondent failed to follow the facility's waste analysis plan, to wit: the facility failed to follow the waste analysis plan as described in the Operation plan.

2.11. On or about February 20, 1991, Respondent violated Hazardous Waste Facility Permit, section IV Compliance Schedule, and Health and Safety Code section 25202(a), in that the facility failed to submit the revised Part A application to the Department within 60 days following the effective date of the permit.

SCHEDULE FOR COMPLIANCE

3. Based on the foregoing DETERMINATION OF VIOLATIONS, IT IS HEREBY ORDERED THAT:

3.1.1. Respondent shall begin to correct the violations immediately. Respondent shall complete corrective action and submit a signed Certification of Compliance to the persons listed in paragraph 3.2 within 30 days of the date of issuance.

3.2. Submittals. All submittals from a Respondent pursuant to this Order shall be sent to:

Paula Rasmussen  
Branch Chief  
Surveillance and Enforcement Branch  
Toxic Substances Control Program  
Department of Health Services  
245 West Broadway, Suite 350  
Long Beach, CA 90802

Clarence Berman  
Unit Chief  
Surveillance and Enforcement Branch  
Toxic Substances Control Program  
Department of Health Services  
245 West Broadway, Suite 350  
Long Beach, CA 90802

3.3. Communication. All approvals and decisions of the Department made regarding submittals and notification will be communicated to Respondent in writing by the Regional Surveillance and Enforcement Branch Chief, Toxic Substances Control Program, Department of Health Services, or her/his designee. No informal advice, guidance, suggestions, or comments by the Department regarding reports, plans, specifications, schedules, or any other writings by

Respondent shall be construed to relieve Respondent of the obligation to obtain such formal approvals as may be required.

3.4. Department Review and Approval. If the Department determines that any report, plan, schedule, or other document submitted for approval pursuant to this Order fails to comply with the Corrective Action Order or fails to protect public health or safety or the environment, the Department may:

a. Modify the document as deemed necessary and approve the document as modified or

b. Return the document to Respondent with recommended changes and a date by which Respondent must submit to the Department a revised document incorporating the recommended changes.

3.5. Compliance with Applicable Laws: Respondent shall carry out this Order in compliance with all local, State, and federal requirements, including but not limited to requirements to obtain permits and to assure worker safety.

3.6. Endangerment during Implementation: In the event that the Department determines that any circumstances or activity (whether or not pursued in compliance with this Order) are creating an imminent or substantial endangerment to the health or welfare of people on the site or in the surrounding area or to the environment, the Department may order Respondent to stop further implementation of this Order for such period of time as needed to abate the endangerment. Any deadline in this Order directly affected by a Stop Work Order under this section shall be extended for the term of the Stop Work Order.

3.7. Liability: Nothing in this Order shall constitute or be construed as a satisfaction or release from liability for any conditions or claims arising as a result of past, current, or future operation of Respondent. Notwithstanding compliance with the terms of this Order, Respondent may be required to take further actions as are necessary to protect public health or welfare or the environment.

3.8. Site Access: Access to the site shall be provided at all reasonable times to employees, contractors, and consultants of the Department, and any agency having jurisdiction. Nothing in this Order is intended to limit in any way the right of entry or inspection that any agency may otherwise have by operation of any law. The Department and its authorized representatives shall have the authority to enter and move freely about all property at the site at all reasonable times for purposes including but not limited to: inspecting records, operating logs, and contracts relating to the Site; reviewing the progress of Respondent in carrying out the terms of this Order; and conducting such tests as the Department may deem necessary. Respondent shall permit such persons to inspect and copy all records, documents, and other writings, including sampling and monitoring data, in any way pertaining to work undertaken pursuant to this Order.

3.9. Sampling, Data, and Document Availability: Respondent shall permit the Department and its authorized representatives to inspect and copy all sampling, testing, monitoring, and other data generated by Respondent or on Respondent's behalf in any way pertaining to work undertaken pursuant to this Order. Respondent shall allow the Department and its authorized representatives to take duplicates of any samples collected by Respondent pursuant to this Order. Respondent shall maintain a central depository of the data, reports, and other documents prepared pursuant to this Order. All such data, reports, and other documents shall be preserved by Respondent for a minimum of six years after the conclusion of all activities under this Order. If the Department requests that some or all of these documents be preserved for a longer period of time, Respondent shall either comply with that request, deliver the documents to the Department, or permit the Department to copy the documents prior to destruction. Respondent shall notify the Department in writing at least six months prior to destroying any documents prepared pursuant to this Order.

3.10. Governmental Liabilities: The State of California shall not be liable for injuries or damages to persons or property resulting from acts or omissions by Respondent or related parties specified in paragraph 3.16 in carrying out activities pursuant to this Order, nor shall the State of California be held as a party to any contract entered into by Respondent or its agents in carrying out activities pursuant to the Order.

3.11. Additional Enforcement Actions: By issuance of this Order, the Department does not waive the right to take further enforcement actions.

3.12. Incorporation of Plans and Reports. All plans, schedules, and reports that require Departmental approval and are submitted by Respondent pursuant to this Order are incorporated in this Order upon approval by the Department.

3.13. Extension Request: If Respondent is unable to perform any activity or submit any document within the time required under this Order, the Respondent may, prior to the expiration of the time, request an extension of time in writing. The extension request shall include a justification for the delay.

3.14. Extension Approvals: If the Department determines that good cause exists for an extension, it will grant the request and specify in writing a new compliance schedule.

3.15. Penalties for Noncompliance: Failure to comply with the terms of this Order may also subject Respondent to costs, penalties, and/or punitive damages for any costs incurred by the Department or other government agencies as a result of such failure, as provided by HSC section 25188 and other applicable provision of law.

3.16. Parties Bound: This Order shall apply to and be binding upon Respondent, and its officers, directors, agents, employees, contractors, consultants, receivers, trustees, successors, and assignees, including but not limited to individuals, partners, and subsidiary and parent corporations, and

upon any successor agency of the State of California that may have responsibility for and jurisdiction over the subject matter of this Order.

3.17. Compliance with Waste Discharge Requirements: Respondent shall comply with all applicable waste discharge requirements issued by the State Water Resources Control Board or a California Regional Water Quality Control Board.

#### PENALTY

4. Based on the foregoing DETERMINATION OF VIOLATIONS, the Department sets the amount of Respondent's total proposed penalty at \$33,000.

#### RIGHT TO A HEARING

5. You may request a hearing to challenge the Order and Complaint. Appeal procedures are described in the attached Statement to Respondent.

#### EFFECTIVE DATE

6. This Order and Complaint is final and effective ten days from the date it is served on you, unless you request a hearing within the ten-day period.

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TIME PERIODS

7. "Days" for purposes of this Order and Complaint means calendar days.

Date of Issuance 7/8/91.

*Clarence Berman*

Clarence Berman  
Unit Chief  
Surveillance and Enforcement Branch  
Toxic Substances Control Program  
Department of Health Services

cc: Mr. William F. Soo Hoo  
Enforcement Coordinator  
Toxics Legal Office  
Toxic Substances Control Program  
Department of Health Services  
714/744 "P" Street  
P.O. Box 942732  
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Ms. Mary Locke, Chief  
Office of Local Enforcement  
Toxic Substances Control Program  
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Mr. Paul Blais, Chief  
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Mr. Don Johnson, Chief  
Surveillance and Enforcement Branch  
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cc: Mr. Val Siebal  
Regional Administrator  
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Toxic Substances Control Program  
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10151 Croydon Way  
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Mr. Howard Hatayama  
Regional Administrator  
Region 2  
Toxic Substances Control Program  
Department of Health Services  
700 Heinz Avenue  
Berkeley, CA 94710

Mr. Dennis Dickerson  
Regional Administrator  
Region 3  
Toxic Substances Control Program  
Department of Health Services  
1405 No. San Fernando Road  
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✓ Mr. Frank Laguna  
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Ms. Theodora Berger  
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Mr. Rick Porter  
Program Manager  
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